

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

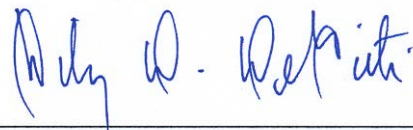
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|------------------------------|---|-----------------------|
| PONCA MACHINE COMPANY, INC., |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Case No. CIV-18-958-D |
| |) | |
| EMCASCO INSURANCE COMPANY, |) | |
| |) | |
| Defendant. |) | |

ORDER

Before the Court is Defendant EMCASCO Insurance Company's Rule 12(b)(6) Motion to Dismiss [Doc. No. 6]. The Motion challenges the sufficiency of Plaintiff's original pleading. In response to the Motion, Plaintiff has timely filed an amended pleading as authorized by Fed. R. Civ. P. 15(a)(1)(B). This amendment "supersedes the original and renders it of no legal effect." *Davis v. TXO Prod. Corp.*, 929 F.2d 1515, 1517 (10th Cir. 1991) (internal quotation omitted); see *Predator Int'l, Inc. v. Gamo Outdoor USA, Inc.*, 793 F.3d 1177, 1180-81 (10th Cir. 2015); *Mink v. Suthers*, 482 F.3d 1244, 1254 (10th Cir. 2007). Thus, Defendant's Motion is moot.

IT IS THEREFORE ORDERED that Defendant EMCASCO Insurance Company's Rule 12(b)(6) Motion to Dismiss [Doc. No. 6] is DENIED without prejudice to resubmission, if appropriate, in response to the First Amended Complaint [Doc. No. 10].

IT IS SO ORDERED this 30th day of October, 2018.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE